

HEALTH SERVICES AND DEVELOPMENT AGENCY

MINUTES *

March 23, 2016

AGENCY MEMBERS PRESENT

Johnson, D. Lynn, Chair
Wright, James, Vice-Chair
Doolittle, Robert S.
Burns, Charlotte
Fleming, Martin, M.D.
Mills, Thom
Grandy, Joe
Harding, Jaclyn, designee for the Comptroller of the Treasury
Jordan, Lisa, designee for the Commissioner of Commerce and Insurance

ABSENT

Ridgway, Corey
Gaither, Keith, designee for the TennCare Director

AGENCY STAFF PRESENT

Hill, Melanie, Executive Director
Ausbrooms, Mark, Administrative Assistant III
Craighead, Alecia, Statistical Analyst III
Earhart, Phillip, HSD Examiner
Farber, Mark, Deputy Director
Finchum, Rhonda, Administrative Officer
Grimm, Jeff, HSD Examiner

COURT REPORTER

Firlus, Duke

GUESTS PRESENT

Brown, Richard, Member and Vice President, Integra Resources, LLC.
Duncan, Bruce, Assistant Vice President, National HealthCare Corporation
Horvath, Mike, Alere Women's and Children's Health
Milner, Laura, Alere Women's and Children's Health
Phillips, Brant, Esq., Bass Berry & Sims PLC.
Pierce, Lois, Alere Women's and Children's Health
Pritchett, Lynette, CEO/CFO, Tennova Healthcare Jamestown
Puri, Chris, Esq., Bradley Arant Boult Cummings, LLP.
Reed, Ann, R., R.N., BSN, MBA, Director of Licensure, TDH, Division of Health Care Facilities
Stevens, George, CEO, Open Arms Care Corporation
Swearingen, Travis, Esq., Butler Snow
Traugott, Robn, Director of Training and Development, D&S Community Services
Taylor, Jerry W., Esq., Burr & Forman
Trauger, Byron R., Esq., Trauger & Tuke
Wellborn, John L., Consultant, Development Support Group
Woodham, Tony, Director Woodbine Community Organization, Inc.
Zdorik, Scott, Southwest Director of Business Development, Scioto Properties

ROLLCALL TO ESTABLISH QUORUM

Mr. Johnson requested roll call to establish quorum.

PRESENT: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson

Nine (9) members present.

DIRECTOR'S ANNOUNCEMENTS

Melanie Hill, Executive Director, made general announcements regarding the following:

- 1) Instructions were provided for those providing testimony on the scheduled agenda items;
- 2) The April meeting has 4 applications scheduled for review, 2 of which are consent. The May agenda has 4 and June has approximately 3;
- 3) The House Health Subcommittee was scheduled to consider several amendments to HB 1730/SB1842 at the same time as the Agency's meeting so General Counsel Jim Christoffersen attended the sub-committee meeting so he could follow the legislation. Senate Health and Welfare Committee Chairman Crowe indicated earlier in the week that interested parties would get together the following week to discuss the legislation;
- 4) Jeff Grimm's retirement was acknowledged with best wishes.

APPROVAL OF MINUTES

Mr. Johnson presented February 24, 2016 minutes for approval.

Ms. Burns moved for approval of the minutes as presented. Mr. Wright seconded the motion. The motion CARRIED [9-0-0]. **APPROVED by unanimous voice vote**

AYE: Jordan, Mills, Doolittle, Wright, Burns, Harding, Fleming, Grandy, Johnson

NAY: None

STATE HEALTH PLAN UPDATE

Elizabeth Jones, Assistant Director, Division of Health Planning, Department of Health, presented a brief update as follows:

1. The Neonatal Intensive Care Unit Criteria and the Inpatient Psychiatric Services Criteria have been finalized. Those will not be sent to the governor until the Freestanding Emergency Department standards are finished.
2. On March 15, a public hearing was held to discuss Certificate of Need Standards and Criteria for Freestanding Emergency Departments and helpful insight was received. The first draft is almost finished and should be sent out for comment in the next short period of time.

CONSENT CALENDAR APPLICATIONS

Melanie Hill summarized the following Consent Calendar Applications:

D&S Residential Services, LP, Greeneville (Greene County), TN – CN1512-059

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located at 1010 Old Stage Road, Greeneville (Greene County), Tennessee 37745. The estimated project cost is \$1,015,451.

Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

Need- Need is met, as this will transition four residents from the announced closure of GVDC. This is the last obligation that must be met to settle the State's 19-year old lawsuit {DOJ (People First of Tennessee) et al. v.

CBDC lawsuit}. Judge Sharp found the State's Exit Plan "fair, reasonable, and adequate". These residents will continue to receive appropriate services and supports but they will now receive them in a community-based setting and in a home-like environment. Economic Feasibility- The project is economically feasible based upon the applicant's ability to work with Scioto Properties, LLC and access an \$8 million revolving line of credit which matures in 2020 from Cadence Bank to build this and two other ICF/IID projects in Greene County which will then be leased back to the applicant. The beds will be immediately filled and the cost-based Medicaid reimbursement set by the Comptroller's Office. Since the State of Tennessee is the payor for this service, this setting is more economically feasible for the state. Contribution to the Orderly Development of Health Care-The applicant is an experienced and knowledgeable ICF/IID provider who also is the largest provider of HCBWS. As such, it is familiar with both state and federal regulations; it has prior contractual relationships with both TennCare and the Department, and an understanding of both the intellectual disability population and the intellectual disability system in Tennessee. Additionally, it meets the goals set for GVDC residents to receive appropriate services and supports in alternative, community-based settings.

Mr. Doolittle moved for approval of the project based on Ms. Hill's justification. Mr. Grandy seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

D&S Residential Services, LP, Afton (Greene County), TN — CN1512-060

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located at 2609 Erwin Highway, Afton (Greene County), Tennessee 37616. The estimated project cost is \$874,858.

Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

Need- Need is met, as this will transition four residents from the announced closure of GVDC. This is the last obligation that must be met to settle the State's 19-year old lawsuit {DOJ (People First of Tennessee) et al. v. CBDC lawsuit}. Judge Sharp found the State's Exit Plan "fair, reasonable, and adequate". These residents will continue to receive appropriate services and supports but they will now receive them in a community-based setting and in a home-like environment. Economic Feasibility- The project is economically feasible based upon the applicant's ability to work with Scioto Properties, LLC and access an \$8 million revolving line of credit which matures in 2020 from Cadence Bank to build this and two other ICF/IID projects in Greene County which will then be leased back to the applicant. The beds will be immediately filled and the cost-based Medicaid reimbursement set by the Comptroller's Office. Since the State of Tennessee is the payor for this service, this setting is more economically feasible for the state. Contribution to the Orderly Development of Health Care-The applicant is an experienced and knowledgeable ICF/IID provider who also is the largest provider of HCBWS. As such, it is familiar with both state and federal regulations; it has prior contractual relationships with both TennCare and the Department, and an understanding of both the intellectual disability population and the intellectual disability system in Tennessee. Additionally, it meets the goals set for GVDC residents to receive appropriate services and supports in alternative, community-based settings.

Mr. Wright moved for approval of the project based on Ms. Hill's justification. Ms. Burns seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

D&S Residential Services, LP, Afton (Greene County), TN — CN1512-061

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located at 2619 Erwin Highway, Afton (Greene County), Tennessee 37616. The estimated project cost is \$874,858.

Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

Need- Need is met, as this will transition four residents from the announced closure of GVDC. This is the last obligation that must be met to settle the State's 19-year old lawsuit {DOJ (People First of Tennessee) et al. v.

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CBDC lawsuit}. Judge Sharp found the State's Exit Plan "fair, reasonable, and adequate". These residents will continue to receive appropriate services and supports but they will now receive them in a community-based setting and in a home-like environment. Economic Feasibility- The project is economically feasible based upon the applicant's ability to work with Scioto Properties, LLC and access an \$8 million revolving line of credit which matures in 2020 from Cadence Bank to build this and two other ICF/IID projects in Greene County which will then be leased back to the applicant. The beds will be immediately filled and the cost-based Medicaid reimbursement set by the Comptroller's Office. Since the State of Tennessee is the payor for this service, this setting is more economically feasible for the state. Contribution to the Orderly Development of Health Care-The applicant is an experienced and knowledgeable ICF/IID provider who also is the largest provider of HCBWS. As such, it is familiar with both state and federal regulations; it has prior contractual relationships with both TennCare and the Department, and an understanding of both the intellectual disability population and the intellectual disability system in Tennessee. Additionally, it meets the goals set for GVDC residents to receive appropriate services and supports in alternative, community-based settings.

Mr. Grandy moved for approval of the project based on Ms. Hill's justification. Mr. Doolittle seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

Open Arms Corporation d/b/a Knox County #1 Bishops Bridge (Northeast), Knoxville (Knox County), TN – CN1512-062

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed lot approximately 0.25 acres, in the northeast quadrant of a parcel of land which is 7.2 acres, currently being addressed as 1817 Bishops Bridge Road in Knoxville (Knox County), Tennessee 37922. The estimated project cost is \$1,370,000.

Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

Need- Need is met, as this will transition four residents from the announced closure of GVDC. This is the last obligation that must be met to settle the State's 19-year old lawsuit {DOJ (People First of Tennessee) et al. v. CBDC lawsuit}. Judge Sharp found the State's Exit Plan "fair, reasonable, and adequate". These residents will continue to receive appropriate services and supports but they will now receive them in a community-based setting and in a home-like environment. Economic Feasibility- The project is economically feasible based upon the applicant obtaining a construction loan to build the facility and the cost-based Medicaid reimbursement it will receive which is set by the Comptroller's Office. Since the State of Tennessee is the payor for this service, this is much more economically feasible for the state. Contribution to the Orderly Development of Health Care-According to TDIDD, this criterion is met based upon this provider's proven track record of providing services within both state and federal regulations, prior contractual relationships with both TennCare and the Department, and an understanding of both the intellectual disability population and the intellectual disability system in Tennessee. Additionally, it meets the goals set for GVDC residents to receive appropriate services and supports in alternative, community-based settings.

Mr. Doolittle moved for approval of the project based on Ms. Hill's justification. Mr. Mills seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

Open Arms Corporation d/b/a Knox County #2 Bishops Bridge (Northwest), Knoxville (Knox County), TN – CN1512-063

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on an unaddressed lot approximately 0.25 acres, in the northwest quadrant of a parcel of land which is 7.2 acres, currently being addressed as 1817 Bishops Bridge Road in Knoxville (Knox County), Tennessee 37922. The estimated project cost is \$1,370,000.

Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

Need- Need is met, as this will transition four residents from the announced closure of GVDC. This is the last obligation that must be met to settle the State's 19-year old lawsuit {DOJ (People First of Tennessee) et al. v. CBDC lawsuit}. Judge Sharp found the State's Exit Plan "fair, reasonable, and adequate". These residents will continue to receive appropriate services and supports but they will now receive them in a community-based setting and in a home-like environment. Economic Feasibility- The project is economically feasible based upon the applicant obtaining a construction loan to build the facility and the cost-based Medicaid reimbursement it will receive which is set by the Comptroller's Office. Since the State of Tennessee is the payor for this service, this is much more economically feasible for the state. Contribution to the Orderly Development of Health Care-According to TDIDD, this criterion is met based upon this provider's proven track record of providing services within both state and federal regulations, prior contractual relationships with both TennCare and the Department, and an understanding of both the intellectual disability population and the intellectual disability system in Tennessee. Additionally, it meets the goals set for GVDC residents to receive appropriate services and supports in alternative, community-based settings.

Mr. Grandy moved for approval of the project based on Ms. Hill's justification. Mr. Wright seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

Open Arms Care Corporation d/b/a Knox County #4 South Northshore Drive (Northwest), Knoxville (Knox County), TN – CN1512-064

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on a 0.95 acre lot on the northwest half of a 1.91 acre parcel whose current address is 12629 South Northshore Drive in Knoxville (Knox County), Tennessee, 37922. The estimated project cost is \$1,370,000.

Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

Need- Need is met, as this will transition four residents from the announced closure of GVDC. This is the last obligation that must be met to settle the State's 19-year old lawsuit {DOJ (People First of Tennessee) et al. v. CBDC lawsuit}. Judge Sharp found the State's Exit Plan "fair, reasonable, and adequate". These residents will continue to receive appropriate services and supports but they will now receive them in a community-based setting and in a home-like environment. Economic Feasibility- The project is economically feasible based upon the applicant obtaining a construction loan to build the facility and the cost-based Medicaid reimbursement it will receive which is set by the Comptroller's Office. Since the State of Tennessee is the payor for this service, this is much more economically feasible for the state. Contribution to the Orderly Development of Health Care-According to TDIDD, this criterion is met based upon this provider's proven track record of providing services within both state and federal regulations, prior contractual relationships with both TennCare and the Department, and an understanding of both the intellectual disability population and the intellectual disability system in Tennessee. Additionally, it meets the goals set for GVDC residents to receive appropriate services and supports in alternative, community-based settings.

Mr. Doolittle moved for approval of the project based on Ms. Hill's justification. Mr. Grandy seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Gaither, Ridgway, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

Open Arms Care Corporation d/b/a Knox County #3 South Northshore Drive (Southeast), Knoxville (Knox County), TN – CN1512-065

To establish a four bed ICF/IID home for individuals with Intellectual Disabilities (ICF/IID) located on a 0.95 acre lot on the southeast half of a 1.91 acre parcel whose current address is 12629 South Northshore Drive in Knoxville (Knox County), Tennessee 37922. The estimated project cost is \$1,370,000.

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Ms. Hill noted that the project was not opposed and it met the statutory Certificate of Need criteria as follows:

Need- Need is met, as this will transition four residents from the announced closure of GVDC. This is the last obligation that must be met to settle the State's 19-year old lawsuit {DOJ (People First of Tennessee) et al. v. CBDC lawsuit}. Judge Sharp found the State's Exit Plan "fair, reasonable, and adequate". These residents will continue to receive appropriate services and supports but they will now receive them in a community-based setting and in a home-like environment. **Economic Feasibility-** The project is economically feasible based upon the applicant obtaining a construction loan to build the facility and the cost-based Medicaid reimbursement it will receive which is set by the Comptroller's Office. Since the State of Tennessee is the payor for this service, this is much more economically feasible for the state. Contribution to the Orderly Development of Health Care-According to TDIDD, this criterion is met based upon this provider's proven track record of providing services within both state and federal regulations, prior contractual relationships with both TennCare and the Department, and an understanding of both the intellectual disability population and the intellectual disability system in Tennessee. Additionally, it meets the goals set for GVDC residents to receive appropriate services and supports in alternative, community-based settings.

Mr. Wright moved for approval of the project based on Ms. Hill's justification. Ms. Harding seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

CERTIFICATE OF NEED APPLICATIONS

Mark Farber summarized the following CON Applications:

Alere Women's and Children's Health, Memphis (Shelby County), TN – CN1512-056

For the addition of 16 counties to its existing 7-county licensed service area of Fayette, Hardeman, Haywood, Lauderdale, Madison, Shelby and Tipton Counties. The proposed additional counties include the following: Benton, Carroll, Chester, Crockett, Decatur, Dyer, Gibson, Hardin, Henderson, Henry, Lake, McNairy, Obion, Perry, Wayne, and Weakley Counties. The project will not change the parent office of the applicant located at 3175 Lenox Park Blvd, Suite 400, Memphis (Shelby County), TN, 38115, nor will it change the provision of services exclusively limited to the care of high-risk obstetrical patients with antepartum and postpartum needs. The estimated project cost is \$79,000.

Brant Phillips, Esq., addressed the Agency on behalf of the applicant.

Summation waived.

Ms. Jordan moved for approval of the project based on the following: **CONDITION: Limited to high risk obstetrical patients with antepartum and postpartum needs.** 1) Need – The need has been established for these specialized obstetrical services to expand the availability of these services to eligible women in the entire West Tennessee grand region. There is a need because of the relatively high level of preterm births; 2) Economic Feasibility – the cost to implement is minimal and can be easily funded by the parent company, and it will also have a positive financial impact on the healthcare system by reducing costs, particularly those costs to the TennCare program, and 3) The project does contribute to the orderly development of adequate and effective health care in that there is no duplication of existing services, and the target population is primarily TennCare enrollees and low-income pregnant women. Mr. Grandy and Dr. Fleming seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

Alere Women's and Children's Health, Chattanooga (Hamilton County), TN – CN1512-057

Mr. Mills recused.

For the addition of 23 counties to its existing 13-county licensed service area of Bledsoe, Bradley, Coffee, Grundy, Hamilton, Marion, McMinn, Meigs, Monroe, Polk, Rhea, Sequatchie and Warren Counties. The proposed additional counties include the following: Anderson, Blount, Campbell, Carter, Claiborne, Cocke, Grainger, Greene, Hamblen, Hancock, Hawkins, Jefferson, Johnson, Knox, Loudon, Morgan, Roane, Scott, Sevier, Sullivan, Unicoi, Union, and Washington Counties. The project will not change the parent office of the applicant located at 651 East 4th Street, Suite 100, Chattanooga (Hamilton County), TN, 37403, nor will it change the provision of services exclusively limited to the care of high-risk obstetrical patients with antepartum and postpartum needs. The estimated project cost is \$80,600.

Brant Phillips, Esq., addressed the Agency on behalf of the applicant.

Summation waived.

Ms. Jordan moved for approval of the project based on the following: **CONDITION: Limited to high risk obstetrical patients with antepartum and postpartum needs.** 1) Need – The need has been established for these specialized obstetrical services to expand the availability of these services to eligible women in the entire West Tennessee grand region. There is a need because of the relatively high level of preterm births; 2) Economic Feasibility – the cost to implement is minimal and can be easily funded by the parent company, and it will also have a positive financial impact on the healthcare system by reducing costs, particularly those costs to the TennCare program, and 3) The project does contribute to the orderly development of adequate and effective health care in that there is no duplication of existing services, and the target population is primarily TennCare enrollees and low-income pregnant women. Mr. Wright seconded the motion. The motion CARRIED [8-0-0]. **APPROVED**

AYE: Jordan, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

GENERAL COUNSEL'S REPORT

Ms. Hill summarized the following CON modification requests:

Tennova Healthcare-Jamestown Fentress General Hospital, f/k/a Jamestown Regional Medical Center, Jamestown (Fentress County), TN – CN1211-055A

Extension Request-A 12 month extension is requested, from April 1, 2016 to April 1, 2017, for additional time to review the efficacy of the project due to changes in the local market, changes in Medicare reimbursement, and a reduction in staffing due to economic challenges. Tennova Healthcare-Jamestown Fentress General Hospital is an 85-bed acute care hospital licensed for 75 medical/surgical beds and 10 geriatric psychiatric beds located at 436 Central Avenue West, Jamestown (Fentress County), Tennessee 38556.

On February 27, 2013, it received unanimous approval for the establishment of Swing Bed services by converting six existing medical/surgical beds to six swing beds. The conversion did not affect the licensed bed capacity of the hospital. The proposed project was subject to the 125 Nursing Home Bed Pool for the 2012-2013 state fiscal year. The estimated project cost was \$30,677.

Jerry Taylor, Esq., addressed the Agency on behalf of the applicant.

Mr. Wright moved for approval of the request for an 12-month extension of expiration date. Mr. Mills seconded the motion. The motion CARRIED [9-0-0]. **APPROVED**

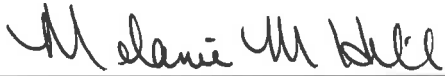
AYE: Jordan, Mills, Wright, Doolittle, Burns, Harding, Fleming, Grandy, Johnson
NAY: None

CONTESTED CASES UPDATE

Ms. Hill advised members to contact Mr. Christoffersen if they had any questions regarding contested cases.

ADJOURNMENT

There being no further business, the meeting adjourned.



Melanie M. Hill, Executive Director

* Minutes provide only a brief staff summary of the meeting and are not intended to be an all-inclusive report. The HSDA maintains a detailed record of each meeting (recording and transcript) that is available upon request by contacting the HSDA office at 615-7412364.